IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9393 OF 2004

1)Smt.Lilabai Laxman Jagtap & Anr... Petitioners.

V/s.

1)M/s Samser Brothers(Pvt.)Ltd. & Anr... Respondents.

Mr. Machindra Patil for the petitioner.

Mr. N.Vechalekar for the respondent.

CORAM : F.I. REBELLO, J.

DATED : 19TH JANUARY, 2005.

P.C. :

1. The petitioners are third parties who are opposing the execution of decree for specific performance which was obtained by the respondent No.1 against the respondents No.2 and 3. The objection to the execution of said decree is on the ground that they are entitled to the said property. In the course of proceeding, they applied that the Director of the Company who is the decree-holder may be called for examination and also for production of power of attorney given by Company in favour of the power of attorney-holder. The said application has been rejected against which the present petition.

2. The petitioners herein claim right to the

property independently of the respondents No.2 and 3. If that be the case, it is for the petitioners to establish their right to the property to contend that the decree obtained by the respondent No.1 against the respondents No.2 and 3 is not binding upon them. If, they so prove, then the executing court would pass the appropriate order. For that purpose, neither the Director of the Company nor the power of attorney is required. The argument as to the power of attorney to my mind for the present need be gone into as the decree in favour of respondent No.1 can be executed to the extent of decree obtained by them against the respondents No.2 and 3.

3. Considering the the above,no inteference call for. Petition stands rejected.

(F.I. REBELLO, J.)